

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA**

SHANNON RUTHERFORD,

)

)

Plaintiff,

)

)

v.

)

2015 _____

)

UNITED STATES OF AMERICA,

)

)

Defendant.

)

COMPLAINT

JURISDICTION AND STATUS OF THE PARTIES

1. Jurisdiction in this matter arises under the Federal Tort Claims Act of June 25, 1948 under 28 U.S.C. § 1346 (b) and 28 U.S.C. §2675 (a), providing that a tort claim against the United States of America which is administratively denied may be presented to a Federal District Court for judicial consideration.

2. The acts and omissions herein complained of occurred in the State of Alabama on May 10, 2012. Plaintiff brings this action pursuant to 28 U.S.C. § 2675 (a) and 28 U.S.C. § 2674 for compensatory damages.

3. Plaintiff Shannon Rutherford is a resident of Madison County, Alabama. Venue is proper under 28 U.S.C. § 1402 (b).

4. Defendant United States of America, by and through its several departments and at all times pertinent hereto, employed, retained, or was otherwise

legally responsible for the acts or omissions of gate personnel at the Redstone Arsenal Gate 1 on Martin Road, Huntsville, Alabama on May 10, 2012. In the occasion giving rise to this litigation, the Redstone Arsenal gate personnel were employed by the United States Army Aviation & Missile Command.

5. On or about October 30, 2012, plaintiff Shannon Rutherford filed an administrative claim with defendant United States of America through the U.S. Army Aviation & Missile Command, c/o Timothy Chism, attorney for the defendant, for damages resultant from the negligent conduct of employees of defendant. A copy of this claim is attached hereto as Exhibit A and is incorporated herein in its entirety by this reference.

6. Defendant United States of America made an offer of settlement, which was rejected by Plaintiff. The U.S. agency has failed to make a final disposition of the claim and therefore Plaintiff may bring this cause of action pursuant to 28 U.S.C. § 2675 (a).

GENERAL AVERMENTS

7. On or about the morning of May 10, 2012, Plaintiff Shannon Rutherford was traveling on Martin Road approaching Gate 1 preparing to exit the Redstone Arsenal in Huntsville, Madison County, Alabama.

8. A vehicle traveling in the opposite direction did not stop as directed. Gate personnel employed by Defendant activated the grab net barrier after the

vehicle had already passed. Upon activating the barrier, the barrier for Plaintiff's direction of travel was also activated. Plaintiff did not have time to react or avoid collision with the barrier.

9. Upon striking the barrier, her car left the ground, causing substantial damage to the vehicle. Plaintiff also suffered severe personal injury as a result of the incident.

10. At all times herein, Redstone Arsenal gate personnel were employed by defendant United States of America and all acts or omissions complained of herein occurred while the gate personnel were acting within the line and scope of their employment with defendant.

COUNT ONE – NEGLIGENCE

11. On or about May 10, 2012, employee(s) of Defendant, while acting within the line and scope of their employment with Defendant, failed to use reasonable care by improperly activating the barrier system causing foreseeable injury to Plaintiff.

12. As a direct and proximate result of such negligence, Plaintiff suffered severe personal injury and property damage.

13. Plaintiff Shannon Rutherford is entitled to compensatory damages for:

- (a) medical bills and expenses;
- (b) pain and suffering;
- (c) future pain and suffering;
- (d) mental anguish;

- (e) lost wages;
- (f) permanent injury and impairment;
- (g) disfigurement; and
- (h) property damage.

14. Defendant United States of America is responsible for all acts and omissions of Redstone Arsenal gate personnel at all times while each were acting within the line and scope of their employment with defendant.

WHEREFORE, plaintiff Shannon Rutherford demands a judgment against defendant United States of America in an amount not to exceed that which was contained in the Administrative Claim attached as Exhibit A, the costs of this litigation to the extent permitted by law, and other and further relief as the Court deems just and proper.

Respectfully submitted on this the 3rd day of April, 2015.

/s/ Tommy H. Siniard

Tommy H. Siniard (ASB-3711-N57T)

/s/ William L. Messervy

William L. Messervy (ASB-4031-W84M)

/s/ Bart Siniard

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